



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

TELECOMMUNICATIONS

ORDER OF APPROVAL

IN THE MATTER OF THE PETITION OF)
WARWICK VALLEY TELEPHONE COMPANY)
FOR CERTIFICATION WITH REGARD TO USE OF)
UNIVERSAL SERVICE SUPPORT)

DOCKET NO. TO01090575

(SERVICE LIST ATTACHED)

BY THE BOARD:

On September 19, 2001, pursuant to 47 C.F.R. §54.314, Warwick Valley Telephone Company (Warwick), by its attorneys, filed a verified petition with the Board of Public Utilities (Board) requesting that the Board certify that Warwick's use of Universal Service Support funds is consistent with the purposes for which such funds may be used, according to Federal law. . Because this certification must be filed with the Federal Communications Commission (FCC) by October 1, 2001 in order for Warwick to receive its full allocation of funds under new requirements imposed by the FCC, Warwick also requested expedited treatment of this matter.

Warwick is an incumbent local exchange carrier (ILEC) providing telecommunications services to customers in the Township of Vernon, County of Sussex, and Township of West Milford, County of Passaic, New Jersey, and the towns of Warwick and Goshen, New York. Warwick provides service to approximately 28,200 access lines, of which approximately 10,300 are in New Jersey. Warwick is a rural telephone company as defined by the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C. §§151 *et seq.*) (hereinafter, the Act). See 47 U.S.C. §153(37). The Board has previously certified Warwick as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. §214(e). See Order of Approval, I/M/O a Petition by Warwick Valley Telephone Company for Designation as an Eligible Telecommunications Carrier Under the Telecommunications Act of 1996, Docket No. TO97080587 (November 25, 1997). Under the Act, certification as an ETC is necessary in order to receive federal universal service support. 47 U.S.C. §254(e).

By a recent Order, the FCC modified its rules for the receipt by the nation's rural telecommunications carriers of continued universal service fund support. See Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed

Rulemaking, *etc.*, I/M/O Federal-State Joint Board on Universal Service, et al., CC Docket Nos. 96-45 and 00-256, FCC 01-157 (May 23, 2001) (hereinafter, the FCC Order). The FCC Order provided that, in order that each state rural telecommunications carrier receive continued universal service support, the public utility commission of that state must begin to file annual certifications with the FCC and the Universal Service Administrative Company (USAC) indicating that each rural telecommunications carriers in its state is using universal service support in a manner consistent with Section 254(e) of the Act. Section 254(e) of the Act requires that universal service support shall be used only "for the provision, maintenance, and upgrading of facilities and services for which the support is intended." Thus, as a prerequisite for Warwick's receipt of 2002 universal service support funds, the Board must provide such a certification to the FCC and USAC by Monday October 1, 2001, and annually thereafter. See the FCC Order at ¶¶185-193; 47 C.F.R. §54.314.

The filing of the state certification by October 1, 2001 is necessary in order that the rural carrier receive universal service support for the first quarter of 2002. 47 C.F.R. §54.314(d). State certifications filed from October 2, 2001 through January 1, 2001 create eligibility for support for the last three quarters of the year. According to the petition, Warwick's estimated universal service funds for the first quarter of 2002, which would be lost if a certification is not filed with the FCC and the USAC by October 1, 2001, is \$234,000 or approximately \$23.00 per access line.

Warwick's petition includes an affidavit from Company Vice President Herbert Gareiss, Jr., in which Mr. Gareiss states the following:

Warwick Valley Telephone Company hereby certifies that it will only use the federal high-cost universal service support it receives during 2002 for the provision, maintenance, and upgrading of facilities and service for which such support is intended, as required by §254(e) of the Telecommunications Act of 1996 and 47 C.F.R. §54.101.

[Warwick petition, Exhibit C].

By letter dated September 25, 2001, the New Jersey Division of the Ratepayer Advocate (Advocate) advised that, based upon the facts set forth in the petition, it does not object to approval of Warwick's petition.

Having reviewed the petition and the information submitted in support thereof, the Board hereby CERTIFIES that Warwick shall use the Federal universal service support it receives during 2002 for the provision, maintenance and upgrading of facilities and service for which such support is intended, as required by Section 254(e) of the Telecommunications Act of 1996 and 47 C.F.R. §54.101 et seq.

Because state certification is now required on an annual basis, and in order to ensure continued use of universal support funds in a manner consistent with Federal law, the Board DIRECTS Warwick to submit to the Board, no later than July 1st and January 1st of each year, a report, in a manner and format to be determined by Staff, providing auditable information sufficient to determine Warwick's compliance with the Federal law, including, but not limited to, compliance with the FCC's required uses of universal service support funds. The Board FURTHER

DIRECTS Warwick to file its future petitions for Board certification no later than July 1st of each year, and to simultaneously publish notice of the filing in newspapers of general circulation in its service territory. Such notice shall be reviewed by Staff prior to its publication.

DATED: 09/27/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
CONNIE O. HUGHES
ACTING PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
SECRETARY

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Docket No. TO0109575

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